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COMMITTEE ON THE RIGHTS OF THE CHILD

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SUMMARY RECORD OF THE 590th MEETING

Held at the Palais des Nations, Geneva,
on Tuesday, 11 January 2000, at 3 p.m.

Chairperson: Mrs. OUEDRAOGO

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The meeting was called to order at 3.05 p.m.

CONSIDERATION OF REPORTS OF STATES PARTIES (agenda item 6) (continued)

Initial report of India (CRC/C/28/Add.10, CRC/C/Q/IND/1; CRC/C/A/IND/1) (continued)

1. At the invitation of the Chairperson, the members of the delegation of India resumed places at the Committee table.

2. Mr. SINHAL (India) said that, since 1993, the budgetary resources allocated to the education sector had increased and that, during the 1990s, there had been more substantial progress on literacy than during the previous decades, from both the qualitative and quantitative points of view.

3. Some independent studies conducted by non-governmental organizations (NGOs) seemed to confirm not only that the literacy rate had increased but also that the proportion of children who had never been enrolled in school had fallen considerably in provinces that were educationally backward. There were marked regional disparities in elementary education in India but, in most of the 32 States and Union Territories, 85 to 90 per cent of children under 14 were enrolled in school. With regard to the remaining children, wide-ranging action had been taken during the 1990s, in accordance with the objective pursued by the Government of India.

4. The Government of India advocated a rights-based approach. Two large States where the education indicators left much to be desired, Rajasthan and Madhya Pradesh, had adopted a rights-based approach, and for some years every child had had to have access to an educational establishment within a one-kilometre radius of his or her home. Those two States still had 16,000 and 22,000 districts respectively where that rule had not been implemented, but a programme had been put in place under which any district not served by a school, situated in a tribal area and having 25 children not enrolled in school, could request that an educational establishment be set up in the area within a relatively short time.

5. In Rajasthan, a legal and administrative framework had been set up to ensure decentralization of education management. Two amendments to the Constitution had given local communities the legal and administrative competence to determine their activities. Elected representatives had conducted a study, following which those districts not served by a school had been able to choose their local teacher.

6. As part of a project conducted in Rajasthan with the support of the Swedish International Development Agency, aimed mainly at integrating girls into the education system and building schools, special educational camps had been set up for girls who had not had the opportunity to go to school between the ages of six and eight. The camps had achieved their objective of integrating girls into the traditional system.

7. Since 1993, each State had been required to inform the Supreme Court of measures taken to benefit children, measures envisaged and the expected timetables for them. The right to education had been recognized by the courts in many provinces, and complaints had been filed with the High Court on behalf of children who had not been to school so that the rights of those

children could be restored. The 1990s had thus been characterized by a clear change of policy. The right to education was now recognized as forming part of domestic law, and local Governments had to meet their obligation to provide education.

8. The District Primary Education Programme, begun in 1994 and now covering almost 40 per cent of the Indian population, illustrated the scale of the financial help granted. Under the programme, a district was selected either because it had a low female literacy rate or because it had a large population of scheduled castes and tribes. The planned activities covered a period of seven years and required up to $10 million of investment for one district. In the 42 districts that had embarked on the programme in 1994, primary school enrolment was almost universal. In the majority of districts, the percentage of girls going to school had increased substantially.

9. The Government of India was aware that marginalized groups existed even in urban areas and considered that cooperation in that regard between the authorities and non-governmental bodies was desirable and necessary.

10. Regarding children employed in agriculture, an NGO (the MV Foundation) had proposed a very effective strategy for integrating children into the school system through "back-to-school camps". The Government of India intended to strengthen its support for foundations and NGOs which favoured the adoption of a framework based on the right to education.

11. With regard to the budget, the proportion of India's GNP allocated to the State education sector had increased from 1 per cent in 1950-51 to 3.7-3.8 per cent, and approximately 1.7 per cent of GNP was allocated to the private education sector. The Government of India did not want private schools to be reserved for the rich, and the Supreme Court of India had ruled that educational establishments could be profit-making organizations but that they had a social role to play. The private sector was obliged to integrate some children of low economic means. Education was a vital issue for India, which wished to continue increasing the proportion of investment earmarked for that sector to 6 per cent of GNP.

12. There were about 200 million children aged between 6 and 14 in India, and independent studies indicated that about 70 per cent of children attended school regularly. Efforts needed to be focused on integrating children who were still excluded from the school system but, regarding the school drop-out rate, he noted that the figures put forward often included enrolments that were non-existent or five years old and therefore overestimated the real rate. Nonetheless, the Government was determined to introduce a national commitment to elementary education in six or seven weeks' time in order to cover the whole country.

13. Child labour remained a problem in a number of States. The Government of India was committed to devoting more resources to education, increasing decentralization and giving the community a greater monitoring role in order to provide quality elementary education for all children, in particular children from marginalized groups.

14. Ms. RAO (India) said that the issue of the legal definition of the child had been raised and submitted to the Law Commission. Following lengthy discussions, a consensus had been reached that there was no contradiction between setting an age limit for certain children's

activities and defining the child as a person aged under 18. That issue would be reconsidered in more detail throughout the country, particularly after the National Commission for Children had been set up.

15. The age of criminal responsibility was set at 7 years in India, but articles 82 and 83 of the Penal Code provided that acts committed by a minor up to 12 years of age did not constitute an offence because the child had not attained sufficient maturity to understand and judge the nature and consequences of his or her acts.

16. The need to harmonize and standardize civil law or to create a uniform code applicable to all children had been debated in India for decades. Indian society was pluralistic and allowed various religions and cultures to coexist. Currently, criminal law and all legislation relating to the environment were enforced uniformly throughout the country, as was the Code of Civil Procedure, but various customary laws and indigenous religious laws relating to personal status were protected and guaranteed by the Constitution. No representatives of religious or indigenous groups had expressed any reservations about the Convention on the Rights of the Child. The issue of harmonizing existing laws with the Convention would be considered in greater depth by the future commission on national law.

17. Legislation on restricting child marriages and on custody and rape was applied to all citizens uniformly without discrimination. In certain areas, such as family support, the person in question could choose between the uniform national legislation and locally-applicable the personal status provisions.

18. Following the Supreme Court's decision on child labour, the State had taken certain concrete measures. India's policy aimed to prohibit children aged under 14 from working. Once that ban was respected, it would provide a solid basis for guaranteeing the other rights of the child. To date, the Government had prohibited the employment of children in 13 professions and in the conduct of 15 procedures. Special schools had been set up to provide non-formal education, apprenticeship and supplementary nutrition for children who had stopped working pursuant to the Supreme Court's decision. The inter-ministerial committee on economic affairs had approved the continuation and expansion of the programme. Under another programme, funds were granted to charitable organizations and to NGOs carrying out projects for the social welfare of child workers, covering up to 75 per cent of the cost of the project in question. In 1992 India had been one of the first States to join the global programme launched by the International Labour Organization in December 1991 for the elimination of child labour.

19. Contrary to appearances, the measures taken by the Government of India following the Supreme Court's decision setting forth guiding principles for the regulation of Government actions and increasing the number of such actions, in cases where children were employed in dangerous conditions, were not simply one-off measures. Once the draft law on universal education for children under 14 and the draft law prohibiting the employment of children under 14 were on the statute book, it would be possible to address that issue thoroughly from a social and legal point of view. The legislation would then have to be backed up with appropriate social and political pressure. That was a question of time.

20. Ms. AGGARWAL (India) said that the Indian Constitution prohibited untouchability, which was covered by anti-discrimination legislation. Violations were severely punished and a commission was responsible for considering all issues relating to the scheduled castes and tribes listed in the annexes to the Constitution. Some affirmative action measures had been taken on behalf of members of such groups, increasing numbers of whom were participating in all aspects of economic life and reaching important positions. The Constitution provided for significant restrictions of early marriage, but in that area like that of the untouchables, it would take time for attitudes to change, especially through achievements in education and development.

21. The decisions of the Supreme Court, which bound all the courts in the country, had been followed up with concrete measures, particularly legislative measures, in areas such as adoption, guardianship, juvenile justice and disabilities. The relevant legislation was implemented at all levels. In that regard, it should be noted that persons who felt that their rights had been violated had the possibility of bringing the matter before the courts simply by sending a letter setting out their grievances.

22. The proposed National Commission for Children would be an independent body responsible for considering all legislation affecting children and for establishing a comprehensive code. It would investigate all violations of children's rights, although it would not be a substitute for the Alliance for the Child.

23. The Government cooperated with NGOs, which assisted it in implementing all sorts of programmes. It funded activities conducted within that framework and sought the opinions of NGOs in various fields. Thus NGOs had been consulted in the preparation of India's initial report.

24. Concerning coordination of activities, official mechanisms had been put in place at different ministerial levels, but additional efforts were needed in that area.

25. Every effort would be made to collect the required statistics in the framework of the 2001 census; relevant data currently being collected would be included in the next report.

26. The Government was not encountering any particular difficulty in funding activities relating to the implementation of the Convention, although it was aware that additional resources would be useful in order to be able to do more. It had begun evaluating the National Plan of Action for Children, which had been launched in 1992 and covered a period of 10 years. The impact of globalization on children, which was already the focus of several studies, would be described in more detail in the next report.

27. The CHAIRPERSON invited the members of the Committee to ask questions on monitoring and general principles.

28. Mr. DOEK asked whether children had in fact been heard during the "Voices of the children" campaign and whether concrete measures had been taken as a result. He would like to know why no legislation had yet been adopted to affirm the right of children to be heard, particularly before the courts.

29. Mr. RABAH, referring to paragraph 85 of the initial report, asked what measures, if any, had been taken to raise awareness of the rights of the girl child and to promote equality of children of both sexes.

30. Mrs. KARP asked whether all the activities aimed at changing mentalities and behaviours and, generally speaking, all policies and programmes relating to the rights of the child, formed part of a well-defined global strategy. She would appreciate specific details of the measures taken by the National Commission for Scheduled Castes and Scheduled Tribes to improve children's living conditions. She would also like to know what difficulties the central Government was encountering in implementing its decisions in the different States comprising the country.

31. She asked how the Government of India intended to ensure that the principle of the best interests of the child was respected, vis-à-vis the different types of personal status and religious particularities. She would like to know how the rights-based strategy required by the Convention was to be put into practice and whether there was a systematic programme for training public servants and other individuals working to ensure respect for children's rights.

32. Mrs. SARDENBERG said she would appreciate her question about the impact on children of the transition to a market economy being answered without waiting until the next report. She would like more specific information about the mechanisms governing relations with NGOs and civil society, the children's code, the practical implementation of the global strategy on children's rights and the measures taken to protect disadvantaged tribes. Further information on child prostitution and Devadasis, and on measures to combat discrimination against the girl child, would be welcome.

33. Mrs. MOKHUANE requested a clear explanation of how the right to development was implemented in India, particularly in relation to children.

34. Mrs. RILANTONO said she wondered about the basic principles governing programmes relating to street children. Activities undertaken in that area should go beyond punishment and focus more on education, in an effort to bring about a change in mentalities. The Government should start by defining such principles clearly and acting in cooperation with NGOs, which would then enable it to evaluate the results of its action more precisely.

35. Mr. FULCI said that he was concerned at the persistence in Indian society of three phenomena that were nonetheless prohibited by law: discrimination against widows, of whom there were many because of early marriage, but who were seen as a source of misfortune and were forced to leave their homes and live in isolated communities; female infanticide and the use of amniocentesis to find out the sex of foetuses and carry out selective abortion and the widespread use of children for picking up litter.

The meeting was suspended at 4.35 p.m. and resumed at 4.45 p.m.

36. Ms. AGGARWAL (India) said that it was possible for children to be heard in cases concerning them, especially in the children's courts. A number of affirmative action measures had been taken on behalf of girls. Parents were paid an allowance on the birth of a girl and

scholarships were provided throughout the girl's schooling and again at university level, which had the effect of preventing girls from dropping out of school or marrying too early. The Ministry of Education was conducting a programme specifically aimed at raising awareness of girls' rights, a subject also treated by various radio and television programmes, including one, designed to encourage girls to remain in school, which had been developed in cooperation with UNICEF. One of the ICDS programmes mentioned in paragraph 16 of the initial report specifically targeted teenagers. In an effort to change attitudes, the Government had established close cooperation with NGOs and society at large: universities, study centres and the media. In so doing it made use of the public radio and television broadcasting network, which reached all communities, even those in the most remote villages.

37. Concerning the impact on children of the establishment of the Commission for Scheduled Castes and Scheduled Tribes, she noted, first of all, that the Commission did not work exclusively on behalf of children, but worked for all members of scheduled castes and scheduled tribes. Its role was to submit regular reports to Parliament and the ministers and to prepare guidelines. When the Commission learned that the guidelines were not being applied, it sent an inspector to conduct an on-the-spot inquiry.

38. Mr. SINHA (India), referring to the impact of economic reforms and globalization on Indian society, said that the transition to a more liberal policy in 1991 had not been accompanied by a reduction in social budgets. On the contrary, the high growth rate attained through the reforms, which had been as high as 6 per cent, had made it possible to increase investment in the social sector, in particular employment and education. It was true that some areas had received more investment than others and that displacement of manpower had caused overpopulation in the cities, but the Government was paying close attention to the problem. Generally speaking, the 1990s, besides being years of economic reform, had been a time of campaigns for social awareness, in particular in favour of vaccination, literacy and non-discrimination. They had also been a turning-point towards the adoption of an efficiency-based approach. In the education field, decentralization of teacher recruitment had resulted in both savings and the unprecedented filling of all vacant posts.

39. The castes and tribes explicitly protected by the Constitution accounted for 15 and 7.5 per cent of the population respectively. Constitutional protection included, for example, the obligation for the Government to develop a tribal sub-plan and a special-component plan for the castes and to set aside a percentage of public investment for the tribal areas, which were autonomous and chose their own leaders. The districts with a high concentration of tribal communities also had a tribal autonomy council, whose consent was required prior to any industrial, mining or forestry activity being conducted in any of the communities. He noted the recent establishment of the Department for Tribal Affairs and referred the Committee to the initial report for information about progress achieved in schooling children from scheduled castes and scheduled tribes. Participation of the tribes and castes, and also of women, had improved significantly throughout the 1990s. A third of those elected to municipal Government had to be women, and a bill introducing female quotas for seats in Parliament had recently been submitted.

40. Ms. AGGARWAL (India) said that the Government maintained close relations with NGOs. A number of programmes, such as a programme granting microcredits to women, were financed by the State but carried out by NGOs. In addition, some NGOs were represented on public bodies and commissions.

41. The Government had recently begun to assess the number of widows seeking refuge in holy places, which was said to be on the order of a few thousand. The problem was apparently limited to western Bengal, and to resolve it the federal Government had recommended that the Government of western Bengal should consider paying out a widow's pension. The Government of western Bengal had already set up shelters and information centres for the widows concerned. They were also able to receive vocational training from Government-subsidized NGOs.

42. With regard to Mr. Fulci's other subjects of concern, she said that requesting amniocentesis with a view to conducting an abortion if the foetus proved to be female was considered to be a crime by law and that child labour was prohibited. NGOs and militants were very active on such issues, although it had to be acknowledged that attitudes changed slowly.

43. Ms. RAO (India) said that the Devadasis, although part of the Indian cultural heritage were a controversial group. Southern India had always contained Devadasis, who had originally been sacred dancers. Deprivation and abject poverty had caused them gradually to take to prostitution. Awareness-raising programmes had been conducted in the four southern States concerned, and women's associations had developed plans for assisting the Devadasis. Such plans focused on providing them with training and assistance in establishing businesses, to bring them out of prostitution.

44. In 1992 she had taken part in a project conducted in Karnataka State, under which some 24,000 Devadasis had received one or two hectares of land, half of which had been State-subsidized and the other half financed by loans taken out by the beneficiaries. The farms had become profitable within a few years and virtually all of the Devadasis had been able to pay back their loans. The Government had been working together with NGOs to help reinsert the Devadasis into society and raise public awareness of the inhuman nature of their situation.

45. The concept of a rights-based approach to implementing the Convention was a new one for India, where communication between the different levels of Government remained slow. Thanks to the catalyst role played by UNICEF, however, that concept had become firmly rooted in the workings of national and local Government bodies, social institutions and NGOs. Similarly, all legal provisions currently under review, in particular the Juvenile Justice Act 1986, took a rights-based approach and referred to the Convention.

46. Ms. AGGARWAL (India) said that the National Institute of Public Cooperation and Child Development held regular training seminars, which were largely based on the principles of the Convention, for public servants working with children. Police officers were also aware of the Convention's provisions and of issues relating to sexual inequalities.

47. The CHAIRPERSON invited the members of the Committee to ask questions on civil rights and freedoms and family environment and alternative care.

48. Mr. DOEK said that he was concerned about the low rate of birth registration, which undermined the reliability of all available statistical data on children. He would like to know what concrete measures the Government had taken to correct that problem and whether it had requested assistance from UNICEF or other organizations. The Committee had received disturbing information about children belonging to the Chakma and Hajong groups, which had been expelled from eastern Pakistan - present-day Bangladesh - in 1964 as a result of a hydroelectric project. Was it true that they were refused Indian nationality?

49. Regarding children's access to information, which was a problematical issue, he asked whether the Government was considering the establishment of mobile libraries.

50. The Indian Government's reply to the Committee's question on the measures taken to prevent and prohibit police brutality and torture, that no police brutality towards children had recently been reported, was not fully satisfactory, especially as the Committee was in possession of information contradicting that statement. The dalits appeared to be subjected to aggression by the police and private militias (sinas) because they were suspected of being in sympathy with the naxalites, who had conducted some violent land-redistribution campaigns. There were apparently a large number of women and children among the victims. Violence against street children was also said to be very widespread. In addition, many children in Jammu and Kashmir had reportedly been murdered, tortured or caused to disappear. What measures was the Government considering to combat all those forms of violence against children?

51. In conclusion, he asked whether those responsible for brutality and physical violence, especially corporal punishment, against children - parents, teachers and others in a position of authority - were prosecuted and what had been the reasons for the 30 deaths in children's homes reported by the National Human Rights Commission.

52. Mrs. LE GUINDI asked how the principle of the best interests of the child was guaranteed under the different adoption procedures and whether there was a mechanism for follow-up of children in their respective adoptive homes.

53. Mr. FULCI asked whether the Indian delegation was able to confirm information stating that only one-third to one-half of children were registered at birth. On another matter, the Committee was deeply concerned at reports of torture and sexual violence by law-enforcement officers and police officers against children in police custody. In that connection, he regretted that the Special Rapporteur on the question of torture had not been authorized to visit India despite having made repeated requests to do so since 1993. The World Organization against Torture had reported violence by the army against children in the State of Manipur. What concrete measures was the Indian Government planning to take to correct that situation and to give effect to article 37 (a) of the Convention? Were complaint mechanisms accessible to child victims of violence?

54. Lastly, he would like additional information on the number of abandoned children and the amount of financial and human resources given to institutions providing alternative care for children in need.

55. Mr. RABAH said that he would appreciate additional information about the repercussions of conflicts, especially religious conflicts, on children belonging to minority groups, and asked to what extent children's rights were affected by the conflict in Kashmir.

56. Mrs. RILANTONO asked who distributed children's periodicals, what proportion of children had access to the children's press and how children were protected from the potentially harmful information disseminated by certain media.

57. Mrs. MOKHUANE asked whether the Government had called on traditional birth attendants to raise the people's awareness of the importance of birth registration, which, in particular, enabled the Government to anticipate the resources needed for the country's children. She would like to know how the right to privacy of children in conflict with the law or child victims of violence was protected, given that some professional journals published photographs of children involved in judicial proceedings. Were there specific rehabilitation programmes for child victims of torture or violence? How did the authorities deal with the issue of police brutality?

58. She was not convinced by the reply to question 15 of the list of issues, as she was in possession of information attesting to the extremely precarious situation of women and children who had been the victims of expulsion and forced displacement as a result of large-scale economic projects conducted in the context of structural adjustment policies. She would like to know how the Government intended to improve the living conditions of homeless people in the regions concerned.

59. Mrs. KARP asked whether it was true that no legal provision existed for the removal of a child from his or her family in the case of ill-treatment by the family, and if so, how the interests of a child in such a situation were protected. She would also like to know what mechanism existed for child victims of incest, whether there were rehabilitation programmes for them, what proportion of parents were convicted of incest and what types of penalties they received.

60. Had research been conducted on a possible link between ill-treatment, especially incest, in families and the existence of street children? How was it that the Juvenile Justice Act applied both to abused children and juvenile offenders? Was the Government combating the practice of early marriage for girls?

61. The CHAIRPERSON asked whether, given the high level of violence in India, the authorities were working to promote a culture of peace and tolerance. She invited the Indian delegation to reply to the Committee members' questions at the following meeting.

The meeting rose at 6.10 p.m.